Before the
Federal Communications Commission
Washington DC 20554

In the Matter of:

	)	
Schools and Libraries Universal Service	)	
Support Mechanism Second Report and	)	CC Docket No. 02-6
Order and Notice of Proposed Rule Making	)	
	)	

Comments of StateNets – America's State Education Networks

Forward

StateNets is the public and not-for-profit organizations whose professionals operate the statewide education networks that serve the substantial portion of our states' K-20 education and library institutions. See http://www.statenets.org/.

First, StateNets commends the FCC for the value and benefit the E-rate Program has brought to the schools and the libraries of the states served by StateNets members. Without the E-rate Program, Internet connectivity and access to advanced technology and valuable educational resources would be far behind their current status.

Likewise StateNets commends USAC and the SLD for their work in administering a complex program with great demand in a reasonable manner. StateNets appreciates the pressures under which SLD must operate on a daily basis. To the credit of George McDonald and his staff, they are willing listeners to suggestions from the applicant community.

While StateNets believes there is little fraud in the E-rate Program, even a few unscrupulous people can cause a major problem in a $2.25 billion program. Although the benefit of the E-rate program is substantial, there are areas in which the program rules and program administration can be improved to reduce waste and abuse.

The value of state networks to the E-rate Program can not be overstated. The FCC order establishing the E-rate program sought to encourage collaboration and consortia participation as a way of leveraging costs and resources. State networks (and large consortia), aggregate demand and reduce the total cost of telecommunications services for their members, and by extension, the Program. State networks and large consortia also reduce the number of applications that SLD must process. Lastly, most state networks operate under intense scrutiny by state agencies and state legislators, with procurement activities handled by an office independent of the state network, thereby reducing the risk of fraud, waste, and abuse to near zero.

1. Unused Funds Carryover Rules

StateNets generally agrees with the Commission proposal for carry-over funds.

2. Technology Plan Approval

The Commission should keep the current practice of requiring technology plans be approved by the July 1 start of the funding year or when discounted services begin, whichever is later. StateNets strongly disagrees with any efforts to push that date back in the process, including back to the date of the filing of the Form 470. Schools and libraries prepare technology plans for reasons other than e-rate, including No Child Left Behind, LSTA grants, and other State/local technology initiatives.

3. Computerized Eligible Services List

Although State Education Networks primarily deal with very large bandwidth acquisitions and typically know the potential providers in their states, we see the high value of such a list to the schools and libraries we serve.

4. Other Suggestions for Reducing Waste, Fraud, and Abuse

a. **Processing "No Change" FRNs:** StateNets proposes the FCC establish an "Evergreen FRN" policy for no change Priority One category FRNs. The Administrator reviews thousands of applications annually. The current process is complicated and repetitive. This, in turn, results in delays in the approval of routine Priority One recurring services, and multi-year contract applications in particular. Reviews of applications that are the same from year to year are subject to the same rigor as more complex or large one-time Priority Two applications. StateNets proposes the adoption of an "Evergreen FRN" process for no-change Priority One recurring services. Included in this category, are applications for recurring services, for tariff, and month-to month services from individual and consortia applicants. This process would allow for a streamlined application process for applicants with a reasonable up-front review process for the Administrator. Approval of Evergreen FRNs can be based on the approval of prior year applications, since these services have already been scrutinized previously. StateNets contends Evergreen FRN proposal would reduce the SLD workload by expediting the approval of numerous, no change, Priority One applications. Streamlining the processes would significantly reduce SLD and PIA workload. StateNets believes the implementation can be accomplished with a combination of form revisions, online screen modifications, and changes to SLD Web reference materials. This proposal is an opportunity to make the SLD more efficient by increasing the use of automation, reducing the approval time, and reducing the number of Form 486s submitted for these applications. StateNets believes this issue benefits both the SLD process and applicants and addresses the contemporary concerns of process improvement as well as waste, fraud and abuse.

b. **Large Application Review Team:** Streamline and expedite the review process by having a focused team perform state network and other large/complex reviews rather than spreading them throughout the geographic oriented teams. Large applications have a unique complexity, but most are similar in many respects. A dedicated and consistent team to

review these applications would ultimately save time and resources for both the applicant and the Administrator.

c.   **Optional Consortium Discount Calculation:** Consortia applicants are denied the opportunity to use a simple average to determine discounts. The current methodology requires consortia applicants to average averages, which is bad math. We propose that consortia be permitted to use a simple calculation to determine their discount percentage: divide the total number of FRL students eligible/participating by the total number of students served by the consortia. If, for operational or consortium governance reasons, this simple calculation method could not be used, a consortium could continue to use the current discount calculation methodology. While we do not believe there would be a substantial impact on the discount percentage, there could be a tremendous savings of time by both the applicant and the review team with this simplified alternative.

d.   **Simplify Letters of Agency Procedures:** Revise the structure of Letters of Agency (LOA). LOAs should be effective for the length of time the school or library is a member of the consortia. The policy adopted by the administrator of a three year limit is artificial and does not represent business practices of consortia. The membership is easily checked through the Form 471 and any questions or doubts can be pursued during PIA review. We also strongly recommend that the data required for LOAs and Forms 479 by combined into a single document that can be filed and stored electronically. While this measure may not apply to consortia that do not require collection of Forms 479, it is a simpler alternative than the current time-consuming practice. These measures would reduce both the administrative burden on the applicant as well as expedite the review process, conserving program resources.

e.   **Bidding Requirements for State Networks:** The value of state networks to the E-rate Program can not be overstated. The FCC order establishing the E-rate program sought to encourage collaboration and consortia participation as a way of leveraging costs and resources. State networks (and large consortia), aggregate demand and reduce the total cost of telecommunications services for their members, and by extension, the Program. State networks and large consortia also reduce the number of applications that SLD must process. Lastly, most state networks operate under intense scrutiny by state agencies and state legislators, with procurement activities handled by an office independent of the state network, thereby reducing the risk of fraud, waste, and abuse to near zero. Therefore, StateNets suggests a periodic certification review of state network procurement practices so that state networks do not need to "prove" their honesty every contract every year. The result is that the Form 470 be made optional for state networks. StateNets is confident that state networks procurement requirements are much more stringent than that required by the FCC/SLD and these changes will eliminate application and processing burdens for both the applicant and the program administrator.

f.   **Stable Application Review Staff:** Temporary PIA reviewers create a constant cycle of training and retraining employees. A more stable work force is important for reducing waste in program administration and, more importantly, the hidden waste of applicant resources. The SLD should seek to spread the workload throughout the year. A possible solution is to

establish two windows – one for Priority One services and one for Priority Two services. The current practice of the SLD is to hold funding commitments for Priority Two services until the volume of Priority One services is known. This suggestion would codify what appears to be a two step approach. If PIA staff also answered TCSB calls and assisted the applicant community in answering questions before applications were submitted, we are confident that competent and knowledgeable personnel could be retained.

g. **Definition of Maintenance Services:** Strengthen the definition of maintenance to preclude funding for ineligible help desk and on-site maintenance staff. Currently these service definitions are overly broad and vague which invites opportunities for waste, fraud, and abuse. We propose that the definition of maintenance be restrictively defined as manufacturer's warranty or original manufacturer equipment maintenance contract. Third party equivalents would be permitted, but limited, based on manufacturers' warranty/extended maintenance cost. Contracts including personal services would be prohibited. This proposal addresses waste, fraud, and abuse by limiting its potential.

h. **Direct BEAR Payments to Applicants:** BEAR payments should be made directly to applicants without first going to the service provider. Occasionally, E-Rate payments initiated through the Form 472 (BEAR) process are retained by service providers and not turned over to applicants, as required by program regulation. The BEAR form was developed as a means of addressing situations where E-Rate applicants fully paid for the services before funding commitments were provided and/or providers were able to apply discounts to invoices. The BEAR process was devised as a means of accommodating both service providers and applicants in order to ensure applicants received the program benefits they were authorized. Under the current process, the service provider merely acts as the conduit passing reimbursements to the applicant. The most efficient way to accommodate the BEAR process is by implementing direct assignment to the applicant. This would reduce the time within which an applicant receives payment and the administrative burden on the service provider and the Administrator. It would also reduce the administrative burden on the Administrator by eliminating the need for the Administrator to shepherd the check delivery process on behalf of applicants. StateNets believes there is no legal requirement for BEAR Form reimbursements to be passed through the provider rather than directly to the applicant.

i. **Expand Debarment:** Service providers, applicants and consultants should be debarred for willful or repeated violations of program rules. StateNets concurs with the initial steps the Commission took in the April 29, 2003 Second Order. However, there remains insufficient enforcement authority by the Commission or Administrator to ensure that there are consequences for program violations that are willful and or repeated. Debarment for willful or repeated program violations should be applied to service providers, applicants, and consultants. Debarment terms should be tied to the severity of the violations and should include both duration of nonparticipation and to which service categories it applies. All debarments should be a matter of public record. Service providers or applicants convicted of criminal offenses or held civilly liable for actions not related to E-Rate should not be barred from the program.